

S.N. 10/080,105

STEVEN C. GEVAERT

REMARKS

Claims 1-20 are pending in the present application. In the Office action, claims 10 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tolleson (U.S. Pat. No. 5,039,163). Claim 17 stands rejected under U.S.C. § 103(a) as unpatentable over Tolleson in view of Ballarini (U.S. Pat. No. 4,585,272). Claims 2-8, 12-14 and 18-20 have been allowed, which is noted with appreciation.

By this Amendment, the Applicants have amended claims 10 and 17 in a manner believed to patentably define over the prior art.

Independent claim 10 states that rearward movement of the back to a first pivot position relative to the seat results in flexing of the lower section of the pivot bar to initially close the first space and engage the upper portion of the lower section of the pivot bar with the forwardly facing wall of the upper portion of the seat pocket. In addition, claim 10 states that further rearward pivoting movement of the back to a second pivot position relative to the seat results in subsequent closing of the second space and engagement of the lower portion of the upper section of the pivot bar with the forwardly facing wall of the lower portion of the back pocket and flexing of the upper section of the pivot bar. Claim 10 has been amended to state that the seat and the back are configured such that further pivoting movement of the back beyond the second pivot position is resisted by the intermediate area of the pivot bar without engagement between the seat and the back. This is in direct contrast to the disclosure of Tolleson, which expressly states that rearward pivoting movement of the backrest portion 12 relative to the seat

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on the date shown below. To Facsimile Number 703-872-9306.

Dawn M. Oleszak 11-21-03
Dawn M. Oleszak Date

S.N. 10/080,105

STEVEN C. GEVAERT

portion 14 results in engagement of the flanges 70, to restrict rearward movement of the backrest portion 12 (Col. 5, lines 15-49 and Fig. 3).

As noted previously, Tolleson does not show or suggest spaces between the pivot bar that are sequentially closed to engage surfaces of the back pocket and seat pocket with the pivot bar, as claimed. Further, Tolleson does not show or suggest an intermediate area of the pivot bar that resists rearward pivoting movement after engagement of the pivot bar with the surfaces of the back pocket and seat pocket without engagement between the seat and the back, as claimed. This structure of the present invention provides progressive, sequential resistance as the back is pivoted rearwardly relative to the seat, and is not shown or suggested by Tolleson.

For the above reasons, amended claim 10 is believed to patentably define over the Tolleson reference. A review of the remaining references of record similarly fails to show or suggest the subject matter of amended claim 10, and accordingly claim 10 is believed to be allowable.

Claim 11 depends from claim 10 as amended, and is believed allowable for the above reasons as well as in view of the subject matter thereof.

Claim 17 has been amended to state that the limit member comprises a limit strap separate from the seat and separate from the back, and further states that the limit strap and the pivot bar are defined as including cooperating engagement structure which

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on the date shown below. To Facsimile Number 703-872-9306.


Dawn M. Oleszak

11-21-03
Date

S.N. 10/080,105

STEVEN C. GEVAERT

is operable to stop movement of the back relative to the seat when the back attains a predetermined pivoting position relative to the seat.

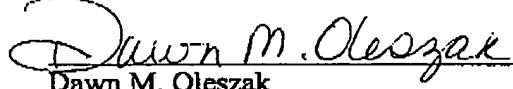
Ballarini discloses a chair 10 that includes a seat 12 connected with an upper backrest 18 by a series of at least three segments 22 (See Abstract and Fig. 3). The seat 12, backrest 18, and at least three segments 22 are articulated into a curved shape by a blade 32 extending transverse to the segments 22 (Col. 4, lines 52-58 and Fig. 3). The bearing surfaces of the upper segment 18 with the bearing surfaces 18a, 22a, 20a, 20b, and 12a limit movement of the blade 32 and backrest 16 (Col. 5, lines 30-46).

In Ballarini, the limit arrangement is integral with the structure of the back. In direct contrast, the limit structure of the present invention is completely separate from both the seat and the back. The feature is emphasized in the amendment to claim 17. Further, any combination of Ballarini with Tolleson would involve modifying the structure of the seat and/or the back of Tolleson to cooperate with the pivot bar to limit pivoting movement of the back. Again, this is in direct contrast to the present invention in which the limit arrangement is separate from the seat and the back and overlies the pivot bar.

Claims 19 and 20 depend either directly or indirectly from claim 17, and are allowable for the same reasons noted with respect to claim 17 as well as in view of the subject matter of each claim.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on the date shown below. To Facsimile Number 703-872-9306.

 Dawn M. Oleszak 11-21-03
Dawn M. Oleszak Date

{00050227.DOC /}

- 11 -

S.N. 10/080,105

STEVEN C. GEVAERT

The present invention does not require further consideration and/or search and clearly places the claims into condition for allowance in view of the cited prior art. Accordingly, applicant requests entry of the amendment and passage of the application to allowance.

The Examiner is encouraged to contact the undersigned by phone if questions remain after consideration of this response, or if such would otherwise facilitate prosecution.

Respectfully submitted,

By Andrew S. McConnell
Andrew S. McConnell
Reg. No. 32,272

Boyle, Fredrickson, Newholm,
Stein & Gratz, S.C.
250 East Wisconsin Avenue, Suite 1030
Milwaukee, WI 53202
(414) 225-9755
Attorney Docket No.: 335.084

Customer Account No.:

23598
23598

PATENT TRADEMARK OFFICE

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on the date shown below. To Facsimile Number 703-872-9306.

Dawn M. Oleszak 11-21-03
Dawn M. Oleszak Date

{00050227.DOC /}

- 12 -